

May 20, 2003

LOIS MCMAHAN  
12001 SE ROPER LANE  
OLALLA WA 98359

Subject: Complaint Filed Against the Washington State Democratic Central Committee -  
PDC Case No. 03-078

Dear Representative McMahan:

The Public Disclosure Commission staff has completed its investigation of your complaint received October 28, 2002, alleging that the Washington State Democratic Central Committee (WSDCC) sponsored false political advertising in violation of RCW 42.17.530.

The PDC staff reviewed your allegations in light of the following statute:

**RCW 42.17.530** prohibits a person from sponsoring with actual malice political advertising that contains a false statement of material fact about a candidate for public office. "Actual malice" means to act with knowledge of falsity or with reckless disregard as to truth or falsity. Any violation must be proven by clear and convincing evidence.

You alleged that the WSDCC sponsored political advertising in which six false statements were made about you when you were a candidate for State Representative in 2002.

1. You alleged that the WSDCC falsely stated that Lois McMahan "*Voted against criminal background checks for school employees that weed out sexual predators and convicted felons (HB 2345, 1996)*"
  - We found that you voted no on the amendment to Substitute House Bill 2345 that would have provided specific funding to implement Substitute House Bill 2554 (background checks for school employees). You acknowledged that you voted against SHB 2345, but described the bill as "*a budget-breaking, last minute amendment to the budget to provide extra funding for a program that was already funded.*" You stated that you did not vote against criminal background checks.

- We found that House Bill 2554 required criminal background checks for existing employees and contract workers not previously subject to background checks. House Bill 2554 provided funding for these additional background checks. Substitute House Bill 2554 removed the funding for the additional background checks. However, the funding was included in an amendment to SHB 2345, an amendment that you voted against.
  - The statement in the ad that you voted against criminal background checks for school employees was directly related to your vote on the amendment to SHB 2345, which related to funding for additional criminal background checks not previously required. Thus, the statement in the ad is not inaccurate. It was the opinion of the WSDCC that your vote against the amendment funding SBH 2554 was a vote against criminal background checks for school employees. Thus, there was no evidence that the ad contained a false statement of material fact in violation of RCW 42.17.530.
2. You alleged that the WSDCC falsely stated that Lois McMahan “*Co-sponsored legislation to weaken child abuse laws. If passed, it would have been illegal to ‘cause physical injury’ to an animal, but not to a child—unless the injury created a ‘substantial risk of death, serious disfigurement or loss of a bodily organ.’ (HB 2399, 1996)*”
- We found that the WSDCC’s statement was its opinion that House Bill 2399 would have resulted in redefining the definition of child abuse to a lower standard than that used to define cruelty to animals. Thus, there was no evidence that the ad contained a false statement of material fact in violation of RCW 42.17.530.
3. You alleged that the WSDCC falsely stated that Lois McMahan “*Opposed public’s right-to-know about sexual predators and violent offenders when they are released to a school. (HB 1401, 1995)*”
- We found that although you voted in favor of the original bill, you did vote against the final version. PDC staff believes there is evidence that the statement in the ad regarding your vote is factual. Thus, there was no evidence that the ad contained a false statement of material fact in violation of RCW 42.17.530.
4. You alleged that the WSDCC falsely stated that Lois McMahan “*Voted to weaken laws protecting women who are victims of stalkers and violent harassment. (SB 5219, 1995)*”

- We found that you voted in favor of a motion to adopt an amendment that would have struck Section 11 of SB 5219 which appointed an interpreter to those who could not readily understand or communicate in a spoken language or in the English language. The WSDCC's statement was its opinion that by voting for the amendment striking Section 11, you voted to weaken SB 5219, and therefore voted to weaken the laws that protect women from violent stalkers. Thus, there was no evidence that the ad contained a false statement of material fact in violation of RCW 42.17.530.
5. You alleged that the WSDCC falsely stated that Lois McMahan "*Made false child slavery accusations against the Washington Department of Social and Health Services, saying 'we're starting to hear rumors of a slave market' (Peninsula Gateway 3/26/96)*" (Emphasis added.)

- We found that you were quoted by the Peninsula Gateway as saying, "*The more I find out about that system, CPS, the more I am very distressed about what I'm finding out...* The article went on to attribute to you a statement that you had heard anecdotal information that in some instances children were removed from homes because they lacked in-door plumbing. You were then quoted as saying, "*It's just so silly – no, it's not silly. It's criminal – the things that are happening.*" The article went on to say, "Then she dropped her bombshell" by saying, "*We're starting to hear rumors about a slave market, believe it or not, for some of the kids that are taken out of their homes... To me this is very distressing. If there's any truth to it at all, if there's even one child that has been shipped out of the state, we have to do something about that situation.*"

The article then quoted Gordon Schultz, a spokesman for the Department of Social and Health Services, as saying he was at a loss as to how to respond to the slave trade rumor. Mr. Schultz was quoted as saying, "*If she has information about that she should be bringing it to us.*" He went on to say, "*How could you respond to something like that? I don't think anyone wants to get into a debate with a legislator. We've never heard anything like that.*" PDC staff understands how a person could read the statements in the article attributed to you, along with the statements in the article attributed to Mr. Schultz, and conclude that your statements were accusatory in nature.

We found that the ad correctly attributed to you the statement, "*We're starting to hear rumors of a slave market.*" We also found that the WSDCC's statement in the ad was its opinion that your comments amounted to making child slavery accusations against the Department of Social and Health Services. Therefore, we are unable to conclude that the

ad contained a false statement of material fact in violation of RCW 42.17.530.

6. You alleged that the WSDCC falsely stated that Lois McMahan “*Tried to ban National Geographic, Life and Esquire magazines from public libraries by defining them as sexually explicit material. (Peninsula Gateway 2/8/95)*”
  - We found that the WSDCC’s statement was its opinion that because House Bill 1448, as originally introduced, did not exempt public libraries, if it had passed as originally introduced, the definitions set forth in the bill could have resulted in magazines such as those cited in the ad being banned from public libraries. In addition, the WSDCC relied on statements included in a Peninsula Gateway editorial dated February 8, 1995, to form its opinion. Thus, there was no evidence that the ad contained a false statement of material fact in violation of RCW 42.17.530.

After a careful review of the alleged violations and relevant facts, we have concluded our investigation and, with the concurrence of the Chair of the Public Disclosure Commission, I am dismissing your complaint against the Washington State Democratic Central Committee.

If you have questions, please contact Phil Stutzman, Director of Compliance, at (360) 664-8853 or toll free at 1-877-601-2828.

Sincerely,

Vicki Rippie  
Executive Director

c: Paul Berendt, Washington State Democratic Central Committee